

TENNESSEE GENERAL ASSEMBLY
 FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 678 - HB 1354

March 27, 2021

SUMMARY OF BILL: Establishes the Tennessee Historic Revitalization Act (Act). Establishes a credit against state tax liability equal to the applicable percentage of the qualified rehabilitation expenditures incurred by each person. Such credits are prohibited from exceeding \$500,000 per annual allocation, provided that:

1. The rehabilitation meets the standards of the Secretary of the United States Department of the Interior for Rehabilitation;
2. The project commenced construction no earlier than January 1, 2020, or begins within 18 months of application approval, and is completed within 36 of application approval; and
3. The total amount of qualified rehabilitation expenditures is equal to or greater than \$5,000.

Establishes that “applicable percentage,” for any certified historic structures, is 25 percent; however, if a certified historic structure is located in a specially designated area at the time of application, such applicable percentage is 30 percent.

Requires that the tax credit be earned in the year in which the certified historic structure was placed in service.

Establishes that if the tax credit earned exceeds the total state tax liability for the year in which the rehabilitated property was placed in to service, the excess amount may be carried forward for the succeeding seven years, or until the full tax credit is used, whichever occurs first.

Authorizes the transfer, sale, or assignment of such credits, including in whole or in part to an affiliate or subsidiary person. Such credits may be allocated among some or all of the partner members, shareholders, or other owners of any partnership, limited liability company, S-corporation, or other similar pass-through entity based on the partner’s, member’s, shareholder’s, or other owner’s pro rata share of the entity or in any manner agreed to by the partners, members, shareholders, or other owners without document an alternative distribution model. An assignee may use acquired tax credits to offset up to 100 percent of state tax liability.

Requires the Department of Revenue to establish rules. Prohibits the Tennessee Historical Commission from approving applications for such tax credit, which in the aggregate exceeds \$5,000,000 per fiscal year. Requires that 65 percent of the aggregate \$5,000,000 be reserved for projects in specially designated areas.

Requires that tax credits be reserved on a first-come, first-served basis, triggered by filing of the application.

Repeals the Act on December 31, 2025, however authorizes any applicant to carry forward any and all tax credits without limitation.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue – \$65,900/FY21-22 through FY25-26/
Historical Commission**

**Decrease State Revenue – \$4,750,000/FY22-23 through FY25-26/
General Fund**

**Increase State Expenditures – \$65,900/FY21-22 through FY25-26/
Historical Commission**

Decrease Local Revenue – \$250,000/FY22-23 through FY25-26

Other Fiscal Impact – Secondary economic impacts may occur as a result of this bill. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions:

- To qualify for the tax credit, the project including the certified historic structure must have commenced construction no earlier than January 1, 2020, or within 18 months of application approval, and is completed within 36 months of application approval.
- The first year in which tax credits will be claimed will be FY22-23.
- Based on information provided by the U.S. Department of the Interior, National Park Service, Technical Preservation Services in the annual statistical reports, the average total rehabilitation expenditures in Tennessee that qualified for the federal historic rehabilitation tax credit was estimated to be \$2,737,927 for FY15-16, \$34,249,316 for FY16-17, and \$311,586,486 in FY17-18, or an average of \$116,191,243.
- Due to the unknown applicable percentage that will be associated with qualified rehabilitation expenditures incurred on certified historic structures, an average percentage of 25 percent is assumed.
- The annual rehabilitation expenditures that would qualify for the tax credit, as established by this legislation, are estimated to be \$29,047,811 (\$116,191,243 x 25%).
- Due to the \$5,000,000 cap set by the proposed legislation, it is assumed that the full \$5,000,000 will be met in each fiscal year in FY22-23 through FY25-26.

- The tax credits may be used against the following tax liabilities: premium tax, retaliatory tax, income tax, business taxes, franchise and excise tax, and any other premium tax, retaliatory tax, or income tax imposed by this state under any other law.
- The tax liabilities of taxpayers which will use this credit are unknown.
- It is assumed that this credit will primarily impact General Fund collections and that the full amount of tax credit awarded of \$5,000,000 will be claimed each year.
- Of this amount, unknown portions would have been allocated to local government under current law due to various statutory distributions associated with impacted taxes. For the purposes of this fiscal analysis, it is assumed that approximately five percent of the total amount of claimed tax credits would have been local revenue in the absence of this legislation.
- The recurring decrease in state revenue, in FY22-23 through FY25-26, is estimated to be \$4,750,000 [$\$5,000,000 \times (100\% - 5\%)$].
- The recurring decrease in local revenue, in FY22-23 through FY25-26, is estimated to be \$250,000 ($\$5,000,000 \times 5\%$).
- Based on previous information provided by the Tennessee Historical Commission, the Commission will require one additional position to administer the proposed program. This employee will: review documents to determine if they are fully completed, accurate and compliant with the established standards; work closely with the Commission's federal tax credit reviewer in order to ensure that projects using both the state and federal tax credit programs are in agreement; review plans and specifications; work with architects and property owners; make site visits; attend meetings; speak at public events about the program; and respond to inquiries from the public and other stakeholders.
- It is assumed that this position will be involved in promulgation of rules and adoption of forms necessary to implement this Act. Therefore, the position will be needed in FY21-22.
- For purposes of this fiscal note it is assumed that despite the repeal date of December 31, 2025, FY25-26 will be a full year impact as tax credits may be awarded up to the full amount in that year and applicants may carry forward any tax credits necessitating further assistance by the Commission.
- The recurring increase in the Commission's expenditures associated with this position is estimated to be \$65,941 (\$39,229 salary + \$13,262 benefits + \$13,450 travel, supplies and materials, and other), beginning in FY21-22 through FY25-26.
- The Commission will set application and certification fees to offset the cost of administering the program. The recurring increase in the Commission's fee revenue, in FY21-22 through FY25-26 is estimated to be \$65,941.
- Any impact on revenue as a result of additional projects that will be undertaken only as a direct result of this legislation that would not be completed under current law would be considered forgone revenue. Due to multiple unknown factors, the extent of forgone revenue cannot be quantified with reasonable certainty.
- Secondary economic impacts may occur as a result of this legislation. Such impacts may be reflected as additional private capital investment leveraged by the proposed state tax credits, additional jobs created as a result of rehabilitation efforts that would be undertaken as a direct result of this legislation, additional commercial activity at restored historical properties, and increased property values at and around the restored properties.

However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

IMPACT TO COMMERCE:

Decrease Business Expenditures – \$5,000,000/FY22-23 through FY25-26

Assumptions:

- This legislation will result in a decrease in tax liability for individuals and businesses that rehabilitate certified historic structures and follow certain standards and criteria.
- The amount of tax relief provided to such individuals and businesses is estimated to be \$5,000,000 in through FY25-26.
- Secondary economic impacts may occur as a result of this legislation. Such impacts may be reflected as additional private capital investment leveraged by the proposed state tax credits, additional jobs created as a result of rehabilitation efforts that would be undertaken as a direct result of this legislation, additional commercial activity at restored historical properties, and increased property values at and around the restored properties. However, due to multiple unknown factors, any such impacts cannot be quantified with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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